

Applicant: John Paulson  
Application No.: 09/928,918

## **Remarks**

Claims 1 through 7 and new claims 9 through 15 are pending in the application.

The examiner notes that the informal drawings filed with the application are acceptable for examination purposes only. Applicant will submit formal drawings if the application is allowed.

## ***Rejections Under 35 U.S.C. §112, ¶2***

Claims 3, 5, and 8 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claim 8 has been canceled. Claims 3 and 5 have been amended to address the examiner's position that the claims should be presented in "Markush" group form. Therefore, this portion of the §112 rejection has been traversed.

Claim 5 was rejected for the additional reason that the phrase "membrane-like" is indefinite. Applicant has amended claim 5 to correspond with the language used in the specification at page 6, line 17, which uses the term "geomembrane" to distinguish a non-woven needlepunched fabric and a foamed scrim. Thus, "membrane-like" has been replaced by -- geomembrane -- to distinguish from the other materials as was intended in the original claim language.

Applicant respectfully submits that the §112 rejection has been traversed by the amendments to claims 3 and 5.

## ***Rejections Under 35 U.S.C. §102(b)***

The examiner next rejected claims 1 and 4 through 8 under 35 U.S.C. §102(b) as being anticipated by *Forsberg*. Claim 8 has been canceled. Applicant submits that claims 1 and 4 through 7 are allowable over *Forsberg*. To anticipate a claim, the reference must teach every element of the claim. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d 1051, 1053 (Fed. Cir. 1987).

The rejected claims are directed to a pad for improving a geosynthetically reinforced segmental retaining wall system having the properties identified in the respective claims. A pad is described throughout the specification and claims as being disposed between layers of block to improve the connection between the blocks and a reinforcing material geosynthetic (Cl. 1).

There are a number of comparison tests reported in the specification in Tables 1 through 11 that compare the pullout force of the geotextile with a pad as claimed to the pullout force necessary to pull out an unpadded geotextile. The pad provides improvements in pullout strength to allow the geotextile to be used to a higher tensile strength, lowers deformations to the wall system when the geotextile is under load, and provides a cushioning effect to reduce cracking and failure of individual blocks. (Cl. 7).

*Forsberg* teaches none of these properties and does not suggest anything other than spikes for improving the connection between a geosynthetic material and a segmental block wall. In fact, the geotextile disclosed by *Forsberg* is the type that would be improved if combined with a pad in accordance with the present invention.

Item 353 that the examiner asserts is a pad *is not* a pad as claimed. Item 353 has no properties that would enhance a connection between it and the block wall. Item 353 is not thickened or treated in any way that would cause it to impart the properties described in the application. Further, *Forsberg* never suggests that a pad could be used or would be desirable. The problems solved by the present invention are never addressed by *Forsberg*. Further, the geosynthetic material in *Forsberg* is not enhanced at the edge that is trapped between wall segments such that it could be a pad in accordance with the present invention.

*Forsberg* fails to disclose any type of material or modification to the geotextile such that the benefits of the present invention would be realized. Therefore, as originally filed, claim 1 is

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not anticipated by *Forsberg* either expressly or inherently, and the rejection under 35 U.S.C. §102(b) based on *Forsberg* should be withdrawn.

Further, nothing in *Forsberg* teaches or suggests the use or properties of the claimed pad. Therefore, it is submitted that the claims 1 and 4 through 7 would not have been obvious under 35 U.S.C. §103 over *Forsberg*.

***Rejections Under 35 U.S.C. §103(a)***

Claim 2 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Forsberg* in view of *Blanc*. As discussed above, *Forsberg* does not teach or suggest the use of the claimed pad. Nor does *Forsberg* recognize the problem in connecting geosynthetics to segmented walls.

*Blanc* teaches the use of a gasket to be used in between block walls. The gasket is not intended as a reinforcing connector between a geotextile and a block wall because the wall in *Blanc* not a retaining wall.

The present invention is directed to retaining walls that include stacked blocks cooperating with a geotextile that will be under tension when in use. That tension strains the connection between the blocks and the geotextile. The present invention is intended to reinforce that connection, and in particular with respect to claim 2, the pad matches the shape of the horizontal surface of its mating blocks.

Both *Forsberg* and *Blanc* fail to teach or suggest a pad that transfers the tension from a geotextile to a retaining wall. Therefore, Applicant respectfully submits that claim 2 would not have been obvious to one of ordinary skill in the art, and that the rejection should be withdrawn.

Claim 2 was also rejected under 35 U.S.C. §103(a) as being unpatentable over *Forsberg* in view of *Brown*. As stated above, *Forsberg* does not recognize the problem solved by the present invention.

*Brown* also fails to address the problem solved by the present invention. *Brown* discloses the use of a gasket 16 that is said to provide a water-tight seal between stacked blocks. (Col. 1, lines 1 through 16.) There is no mention in *Brown* of any retaining wall connections. Indeed, the gasket of *Brown* fails to reinforce the block wall in any way.

Therefore, claim 2 is allowable over the combination of *Forsberg* and *Brown*.

Claim 3 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Forsberg* in view of *Firnkas*. *Forsberg*, as discussed above, does not disclose or suggest the present invention.

The examiner states that *Firnkas* discloses a gasket made of vinyl chloride polymers and copolymers. Nonetheless, the *Firnkas* gasket is not intended to act in concert with a geotextile and a segmented block wall to improve the strength of the connection between the two.

Applicant submits that the combination of *Forsberg* and *Firnkas* would not have suggested or taught the pad of claim 3.

Next, claim 3 was rejected under 35 U.S.C. §103(a) over *Forsberg* in view of *Amata*.

*Amata* discloses a method for making a reinforced geogrid. The geogrid is depicted in the drawings as it is exiting an extruding die 13. (Col. 2, lines 21-28.) The items illustrated on each side of the grid are not blocks used in retaining walls. There is nothing in *Amata* to suggest that a pad could be used to reinforce a connection between the geogrid and the blocks in a retaining wall. Although *Amata* discusses the improved tensile strength of the geogrid itself, it does not discuss the tensile strength of a connection between the geogrid and a segmented block wall.

### ***New Claims***

Claims 9 through 15 have been added to claim a reinforced segmented retaining wall system having block layers, a geosynthetic soil reinforcing material, and a pad that improves the

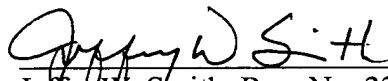
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connection of the geosynthetic to the wall. These claims are allowable for the reasons stated above with respect to claims 1 through 7, and for the additional reason that these new claims are directed to a system of components that is not disclosed or suggested in the prior art as a whole.

### **Conclusion**

For the foregoing reasons, Applicant respectfully submits that claims 1 through 7 and 9 through 15 are allowable, and that this application should be passed to issue.

Respectfully submitted,

  
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